

### **REMARKS**

The applicant has carefully considered the official action mailed on June 7, 2007, and the references cited therein. By way of this response, claims 1, 3, 5-9, 11, 13-16, 18-21, 23, 25, 26, and 30 have been amended. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all pending claims are in condition for allowance and favorable reconsideration is respectfully requested.

### **Examiner Interview**

The applicant would like to thank Examiner Nguyen for the telephonic interview conducted on July 26, 2007. During the interview, Examiner Nguyen indicated that the §101 rejection of claims 19-24 may be overcome via an amendment to include a limitation directed to a memory or storage device to store data. Further, the claim language of the present application was discussed in view of the cited art.

### **The Rejections Under 35 U.S.C. §101**

Claims 19-24 have been rejected under 35 U.S.C. §101 as directed to non-statutory subject matter. However, independent claim 19 has been amended to overcome the §101 rejection. Specifically, claim 19 is not directed to software per se. Rather, the apparatus is now claimed as comprising a memory configured to store data. Accordingly, the applicant respectfully submits that claims 19-24 are directed to statutory subject matter under 35 U.S.C. § 101, and requests withdrawal of the §101 rejection of these claims.

### **The Rejections Under 35 U.S.C. §102(b)**

Claims 1-6, 9-15, 18-22, and 24-29 have been rejected under 35 U.S.C. §102(b) as anticipated by Plum (U.S. Patent No. 5,758,061). As amended, independent claims 1, 9, 19, and 25 recite selecting, or a device to select, at least one test based on an analysis of at least one test profile to reduce testing time of an application. Such a method or apparatus enables a preferable test to be selected from multiple possible tests to improve the efficiency and/or effectiveness of a debugging and/or testing process. For example, a test may be selected from a database containing a plurality of test profiles after an analyzing device performs an analysis of the test profiles. *See*, paragraphs [0014] and [0015] of the present application.

In contrast, no selection of a test is made in Plum. Instead, Plum involves a mid-test determination as to whether a certain path has been reached by a previous test. The result of the determination is then used to create or alter the coverage report currently being generated for the test. This process does not include any selection of a test from a plurality of tests, nor does Plum describe or suggest making such a selection based on an analysis of test profiles to reduce testing time of an application. Thus, the applicant respectfully submits that claims 1, 9, 19, and 25 and all claims dependent thereon are in condition for allowance.

Additionally, claims 3, 11, 21, and 26 have been amended to recite time stamps that are generated to indicate a time-based performance of one or more tests in reference to one or more detected program states. No such operation or device is described in the cited art. According to the official action, a time stamp is defined as a device that “indicates the time and usually the date when a file or Web page was created or last modified.” *See*, the official action, pages 2-3, *citing* a Microsoft computer dictionary. However, this definition is directed to a different type of time stamp than those of the present application. Specifically, the time stamps of the present application are generated to indicate a time (i.e., how fast) a certain program state is detected or

reached during a test of an application. Such an operation is unrelated to tracking the creation of a file or web page.

### **Conclusion**

For at least the foregoing reasons, the applicant respectfully submits that all pending claims are in condition for allowance. If there are any remaining issues, the examiner is invited to contact the undersigned attorney at the number listed below. The Commissioner is authorized to charge any deficiency in the amount enclosed or any additional fees which may be required during the pendency of this application to Deposit Account No. 50-2455.

Respectfully submitted,  
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